

WISHA REGIONAL DIRECTIVE

WISHA Services

Department of Labor and Industries

2.15

TARGETING WISHA ACTIVITIES (CONSTRUCTION) Date: August 14, 2001

I. Background

Most Washington employers are subject to Title 49.17 RCW, the Washington Industrial Safety and Health Act (WISHA). RCW 49.17.050(6) specifically requires the department to "provide for the frequency, method, and manner of the making of inspections of work places without advance notice." WAC 296-350-10010(1) specifically provides for programmed inspections using "scheduling systems" that may look at a range of objective criteria. WAC 296-350-10010(3) also provides for "routine programmed inspections" of several "high hazard industries," including construction.

II. Scope and Application

This WISHA Regional Directive, which replaces and rescinds WISHA Interim Operations Memorandum #98-6-D, will remain in effect indefinitely. It provides guidance to WISHA enforcement and consultation staff regarding programmed activities within construction.

III. Special Enforcement and Consultation Protocols

A. Who has primary responsibility for managing the appropriate use of WISHA enforcement resources to conduct construction inspections?

WISHA regional compliance supervisors are responsible for managing the appropriate assignment of construction inspections within the region. They are expected to do so in accordance with the following general guidance.

1. WISHA compliance supervisors have a responsibility to ensure that staff focus their attention on those work sites where they are likely to identify the greatest number of serious hazards.

2. WISHA compliance supervisors are expected generally to give priority to the following in determining the appropriate application of programmed enforcement resources within construction:
- highest priority should be given to those employers on one of the high-priority lists that have not been inspected since the creation of the list;
 - second priority should be given to an inspector's observation of apparent serious violations when apparent conditions are such that the inspector (in consultation with his or her supervisor, if practical) believes there is a reasonably high probability of injury (normally rated as "4" or above on the penalty worksheet);
 - when work is ongoing at a job site that has not previously been inspected (and regardless of whether apparent serious violations have been observed prior to the inspection), third priority should be given to inspections of the following construction activities: roofing, framing (especially truss work), steel erection, trenching/excavation work, and work near high-voltage power lines;
 - fourth priority should be given to those employers on one of the high-priority lists that have been inspected one or more times since the creation of the list;
 - fifth priority should be given to identified regional priorities within construction, focusing on particular construction phases and activities beyond those listed above (such regional construction targeting initiatives should be reported to WISHA P&TS for tracking purposes, but are not "local emphasis programs" because all construction inspections remain programmed inspections whether they are included in such initiatives or not);
 - sixth priority should be given to an inspector's observation of apparent serious violations not addressed above, as well as to other construction activity not previously evaluated by the region (as a general principle, regional staff should focus attention on those employers found higher on the general construction list that includes all construction employers in the state and that is used primarily as a work assignment and tracking, rather than a targeting, tool).

B. How will the small, intermediate, and large high-priority in construction lists be created?

WISHA P&TS will create three basic employer lists to provide a further focus to WISHA enforcement efforts in construction.

The small employer high-priority in construction list will consist of construction employers with average employment statewide of at least two and no more than 10 full-time equivalent employees. The intermediate employer list will consist of construction employers with more than 10 and no more than 25 full-time equivalent employees. The large employer list will consist of construction employers with more than 25 full-time equivalent employees.

Each list will be ranked according to the combination of the average hourly premium for the particular employer and the calculated experience factor. The lists will exclude those employers who have been the subject of a comprehensive inspection or consultation in the 12 months prior to the creation of the list (but employers inspected after the creation of the list will not drop from the list until it is refreshed, on a quarterly basis).

The small employer list will include the top 200 names; the intermediate employer list will include the top 100 names; the large employer list will include the top 50 names.

C. What is the purpose of the high-priority in construction lists?

The department's sole purpose in creating the lists is to identify those employers who represent the highest priority for enforcement visits in construction. While the data on which the list is based provides a sound reason for initiating an inspection, conclusions about violations of WISHA standards can be made only following the inspection itself. Regional compliance supervisors will use the lists to identify those employers who should be the focus of exceptional efforts to identify and locate their activities in the region, if any.

D. How should inspections within the construction industry be reported?

Inspections within the construction industry are to be considered "programmed" inspections unless they are fatality/catastrophe investigations or are initiated in response to specific complaints or referrals. All such programmed inspections are to be comprehensive hygiene or safety inspections of the work site and/or operation, including an evaluation of the employer's overall safety and health program (safety inspections handled as "focused inspections" in accordance with applicable policies are to be considered comprehensive, programmed inspections unless they are initiated in response to specific complaints or referrals).

Inspections resulting from observed violations (see "A-2" above) should be handled as programmed inspections and should not be considered either "referrals" or "self-referrals" unless the individual reporting the condition to the department specifically requests that it be treated as a referral.

Inspections conducted of employers because they are on one of the high-priority lists or as part of the framing initiative should be specifically recorded, as described in the appropriate IMIS Compliance Instructions.

E. *When should WISHA consultation activity be identified as “programmed” consultation activity?*

WISHA consultation services that result from employer-specific marketing to employers within the construction industry will be considered “programmed” consultation activity for the purposes of reporting to federal OSHA.

Approved: _____

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For further information about this or other WISHA Regional Directives, you may contact WISHA Policy & Technical Services at P.O. Box 44648, Olympia, WA 98504-4648 or by telephone at (360)902-5503. You also may review policy information on the WISHA Website (<http://www.lni.wa.gov/wisha>).